

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Establishing Just and Reasonable Rates For Local Exchange Carriers)	WC Docket No. 07-135
)	
Developing a Unified Inter-carrier Compensation Regime)	CC Docket No. 01-92

**COMMENTS OF MIDWEST CARRIERS IN RESPONSE TO THE FURTHER NOTICE
OF PROPOSED RULEMAKING**

Dated: March 8, 2019

Midwest Carriers

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I. Introduction and Summary

The Midwest Carriers¹ hereby submit these comments in response to the Further Notice of Proposed Rulemaking (the “Notice”) issued by the Federal Communications Commission (“Commission”) in the above captioned proceedings. More specifically, the Midwest Carriers comment on those sections of the Notice regarding the transition to broadband-only lines (also referred to as consumer broadband-only lines or “CBOL”) and concerns on funding the transition to broadband-only lines. The Midwest Carriers support funding all broadband-only lines, provided the carriers follow NECA guidelines. The Midwest Carriers believe this is consistent with the Commission’s goal as expressed in the *Transformation Order* to accelerate the transition to IP networks.

II. The Commission Should Not Limit Cost Recovery When Carriers Follow NECA Guidelines

In the Notice, the Commission expresses concern about increased USF necessary when carriers’ subscribers move from voice and voice/broadband lines to broadband-only lines. Yet, the Commission also recognizes the importance of giving consumers the flexibility to purchase broadband-only lines, which may provide an opportunity to move from “plain old telephone service” (POTS) to new IP-based services. The Commission seeks comment on whether it needs

¹ The Midwest Carriers consist of Rural ILECs in the states of Indiana, Iowa, Nebraska, North Dakota, and South Dakota and include the following carriers: Clay County Rural Telephone Cooperative, “Endeavor Communications,” Farmers Mutual Telephone Company of Stanton, IA, Hartington Telecommunications Company, Inc., The Hemingford Cooperative Telephone Company, Kalona Cooperative Telephone Company, Kennebec Telephone Company, Inc., Marne Elk Horn Telephone Company, Southeast Nebraska Communications, Inc., Stanton Telecom, Inc., Three River Telco, United Farmers Telephone Company of Everly, Iowa, and Valley Telecommunications Cooperative Association, Inc.

to address concerns that some carriers may be moving consumers onto broadband-only lines for the purpose of artificially increasing the support they receive from the Fund.

The Midwest Carriers concur with the Commission in its recognition of the importance in allowing consumers the flexibility to purchase broadband-only lines, which may provide an opportunity to move from “plain old telephone service” (POTS) to new IP-based services. The Midwest Carriers recognize the cost shift and increased funding necessary when consumers choose to make the transition. However, the Midwest Carriers do not believe that the Commission should place limits on a carrier’s cost recovery when its consumers legitimately purchase broadband-only service in accordance with NECA guidelines as discussed below.

If the Commission determines carriers are artificially converting consumers to broadband-only lines for the purpose of artificially increasing the support they receive from the fund, the Commission should consider appropriate actions to discourage carriers from doing so. The Midwest Carriers believe the Commission should define what actions would fit within such definition. The Midwest Carriers recommend that the Commission require all carriers seeking broadband-only support to adhere to the NECA guidelines as to what constitutes a broadband-only line (referred to in NECA Guidelines as consumer broadband-only loop or “CBOL”).² Requiring carriers to adhere to the guidelines will alleviate carriers from artificially converting consumers to broadband-only lines (CBOL) for the sole purpose of artificially increasing support.

² See *NECA Reporting Guideline*, Section 8.17 CBOL for Pooling and USF Reporting.

According to the guideline, for loop-related costs to qualify as a consumer broadband-only loop (CBOL), consumers can be provided with a non-regulated voice service on a CBOL via Interconnected VoIP, OTT Interconnected VoIP, or non-Interconnected VoIP (calls do not utilize the PSTN). ILECs that engage in reclassification without making any substantial change may be viewed as improper or fraudulent attempts to obtain CBOL-related CAF-BLS support.

The Commission also seeks comments on whether it should adopt limits on the number of converted lines for which a carrier may seek broadband-only support. The Midwest Carriers agree with the Commission that although this approach would allow for a planned and smooth increase to the budget, such an approach will put an artificial constraint on conversions especially given more customers want broadband-only lines, with interconnected VoIP or wireless service for voice. Placing limitations on the number of converted lines would be inconsistent with one of the Commission's principles adopted in its November 2011 *Transformation Order*, to accelerate the transition from the circuit-switched network to IP networks.³ The Midwest Carriers believe the Commission should only place limitations on the number of converted lines for which a carrier may seek broadband-only support if the Commission determines that such lines were converted for the purpose of artificially increasing a carrier's support.

Similarly, some suggest carriers are switching consumers from traditional telephone service to interconnected VoIP service for the sole purpose of maximizing overall support amounts. The Commission seeks comment on how to encourage the transition to broadband networks while preventing carriers from using the transition as a way to artificially inflate their support amounts. The Midwest Carriers believe when consumers are switching from traditional telephone service to interconnected VoIP service, the Commission should fully fund this transition and should not place limitations on the transition to an IP enabled network. The

³ One of the Commission's goals is to facilitate the transition to an all-IP network and to promote IP-to-IP interconnection. Paragraph 11 of the *Transformation Order* emphasized that one of the four principles of the Commission's USF-ICC reform process was to modernize and refocus USF and ICC to make affordable broadband available to all Americans and accelerate the transition from circuit-switched to IP networks, with voice ultimately one of many applications running over fixed and mobile broadband networks.

Commission should only place restrictions on broadband-only support when a carrier reports a consumer's loop as broadband-only even though the consumer's loop has not been provisioned as a broadband-only loop.

III. HCLS Should Not Be Immediately Eliminated When Lines Are Transitioned To CBOL

The Commission seeks comment on whether carriers should immediately lose HCLS for any lines converted to broadband since CAF-BLS support for broadband-only lines is typically greater than total HCLS and CAF-BLS for voice and voice/broadband lines. The Commission believes eliminating HCLS for converted lines would still provide carriers with sufficient support. The Commission noted that when a line converts to broadband-only, the carrier immediately begins receiving the increased CAF-BLS but also continues to receive HCLS for two years. The Midwest Carriers submit that the current cost-recovery rules are correct and carriers should continue to receive HCLS for converted lines for two years since HCLS payments, under the current rules, are based on the costs incurred two years prior. For example, the cost under HCLS for a loop with voice or voice/broadband for the year 2017 is not recovered until 2019. Elimination of support for this loop in 2019 due to a conversion to stand-alone broadband would leave the carrier without cost recovery for the facility in place in 2017 and 2018. If the Commission wishes to eliminate the timing difference between HCLS support (ex-post) and CAF-BLS support received for stand-alone broadband (ex-ante), the Midwest Carriers recommend changing HCLS to an ex-ante calculation and align the timing of its receipt with CAF-BLS support.

IV. The Commission Should Not Adjust CAF-ICC Rules For Lines Legitimately Transitioned To CBOL

The Commission also seeks comment on whether it should adjust the CAF-ICC rules to discourage any arbitrage and, if so, how. Specifically, the Commission seeks comments on

whether there are circumstances under which a legacy carrier that converts a line to broadband-only but retains that voice customer with interconnected VoIP service should have to impute some portion of those revenues against its CAF-ICC support. The Midwest Carriers urge the Commission not to adjust the CAF-ICC rules for carriers whose subscribers have requested stand-alone broadband service or when carriers have migrated to CBOL consistent with the NECA guidelines. If the Commission determines a carrier is “gaming” the system, then the Commission should reduce or eliminate that carrier’s CAF-ICC. Similar to the measures recommended above, one method the Commission could pursue to prevent gaming is to disallow CAF-ICC when carriers’ CBOL conversions are not consistent with the NECA guidelines. The Commission should allow NECA to enforce its guidelines and require a carrier’s officer to certify their results comply with such guidelines.

The Midwest Carriers urge the Commission not to consider further CAF-ICC revenue imputations when a carrier converts a line to broadband-only, but retains that voice subscriber with interconnected VoIP service. In these circumstances, a carrier already imputes ARC revenues. In addition, CAF-ICC continues to be reduced 5% per year. When a line is converted to broadband-only, there continues to be a need for cost recovery and revenue replacement. Any additional CAF-ICC reductions that are in addition to the current annual reductions are unwarranted.

V. Conclusion

The Commission should not take any action when a carrier legitimately converts a subscriber to a broadband-only line. Such conversions are consistent with the Commission’s goal of moving to all IP-networks. The Commission should only place limitations on a carrier’s CBOL support if it has been determined that a carrier’s conversions are not consistent with or in

violation of the NECA guidelines. Placing limitations when a carrier's actions are inconsistent with such guidelines will ensure a carrier is not acting to artificially increase its support.

Dated: March 8, 2019

The Midwest Carriers

Clay County Rural Telephone Cooperative,
"Endeavor Communications"

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Hartington Telecommunications Company,
Inc.

The Hemingford Cooperative Telephone
Company

Kalona Cooperative Telephone Company

Kennebec Telephone Company, Inc.

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